

ADVISORY LETTER NUMBER 04-02

April 6, 2004

**TO: ALL PROPERTY AND CASUALTY INSURERS APPROVED
TO ISSUE POLICIES INSURING RISKS IN LOUISIANA**

**RE: Adjustment of Automobile Insurance Claims
Payment for Paint and Materials**

**STATUTE AND REGULATION REFERENCES: The Louisiana Insurance Code,
Title 22 of the Louisiana Revised Statutes §§ 2, 3, 658D and 1211 et seq.**

It has come to the attention of the Commissioner that there continue to be inconsistencies in the adjustment of automobile insurance claims involving the payment for paint and materials, by placing arbitrary caps on these items.

Please be advised that pursuant to LSA-R.S. 22:1214(14) an insurer must pay claims in a manner that is consistent with the provisions of the insurance contract, the facts and the law. Under Louisiana law and the approved automobile policy form, the measure of damages is “the cost to repair or replace the damaged item.” Further, LSA-R.S. 22:658D prohibits insurers from requiring a claimant to have repairs made at a particular shop. The use of an arbitrary cap is inconsistent with policy language and has the effect of forcing claimants to use only those shops willing to accept the capped amount in payment or pay the difference themselves out-of-pocket.

In accordance with policy language and the public policy of this state, the insuring public should receive payment for the repairs, procedures, parts and materials that are necessary to restore a damaged vehicle to its pre-accident condition. Restoration should be relative to safety, function, and appearance, regardless of the prevailing market practice and provided there is prior knowledge and agreement between the involved parties.

Insurance companies are hereby requested to acknowledge that the recommendations of vehicle and paint manufacturers and industry procedure manuals, including information provider software, should be utilized to determine the necessary repair procedures, parts and materials to restore a damaged vehicle to its pre-accident condition.

Where a dispute arises, an insurance company must use all available sources of information in determining the cost of repair, including but not limited to the following:

Mitchell™, CCC™, ADP™, Motors™, I-Car, UPCR (Uniform Procedure for Collision Repair) and Tech-Cor™

Should you have any questions regarding this Advisory Letter please contact my office at 225-342-1258.

J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE

BY: _____
PAULA PELLERIN-DAVIS
DEPUTY COMMISSIONER
OFFICE OF PROPERTY & CASUALTY
LOUISIANA DEPARTMENT OF INSURANCE